

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

KELEY G. SMITH, :
: :
Plaintiff :
: :
vs. : 1:05-CV-81(WLS)
: :
EDWARD GREEN, :
LOUIS L. NEW, :
: : **PROCEEDINGS UNDER 42 U.S.C. §1983**
: : **BEFORE THE U.S. MAGISTRATE JUDGE**
: :
Defendants. : **ORDER**

Plaintiff **KELEY SMITH**, an inmate at Coastal State Prisonfiled the above styled pro se civil rights complaint under 42 U.S.C. § 1983 seeking leave to proceed *in forma pauperis*.

However, even if a prisoner is allowed to proceed *in forma pauperis*, he must nevertheless pay the full amount of the \$250.00 filing fee in installments based on funds in the prisoner's account. When a prisoner has funds in his account, he must pay an initial partial filing fee of twenty (20) percent of the greater of (1) the average monthly deposits to the prisoner's account, or (2) the average monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the complaint. 28 U.S.C. § 1915(b)(1).

A review of Plaintiff's trust fund account statement reveals an average monthly balance for the period of time for which information of \$199.08 and average monthly deposits of \$132.72. Twenty percent of \$199.08 is \$39.81. Accordingly, it is hereby **ORDERED** that Plaintiff pay an initial partial filing fee of \$39.81.

Plaintiff shall have thirty (30) days from the date of his receipt of this Order to pay the required initial partial filing fee to the Clerk of the Court, or to explain to the Court his inability to do so. Failure to comply with this Order shall result in the dismissal of Plaintiff's complaint. There shall be no service in this case until further order of the Court.

SO ORDERED, this the 22nd day of July, 2005.

/s/ Richard L. Hodge
RICHARD L. HODGE
UNITED STATES MAGISTRATE JUDGE

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